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MONTANA LEGISLATIVE HISTORY

Chapter 15 19 92, S.L. ~~1992~~
Bill H 44 S July Original bill & history ☒ C

H. Committee on Taxation

Hearing Date(s) 7/13 ☒ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Taxation

Hearing Date(s) 7/17 ☒ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

INTRODUCED BY REAM, TOWE

JULY 10, 1992 INTRODUCTION AND REFERRED TO COMMITTEE
ON TAXATION.

JULY 11, 1992 FIRST READING.

JULY 15, 1992 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JULY 16, 1992 PRINTING REPORT.

SECOND READING, DO PASS AS AMENDED.

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 52; NOES, 48.

TRANSMITTED TO SENATE.

JULY 16, 1992

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

JULY 17, 1992

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN.
AYES, 27; NOES, 23.

RETURNED TO HOUSE WITH AMENDMENTS.

JULY 18, 1992

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

THIRD READING, AMENDMENTS

CONCURRED IN.
AYES, 50; NOES, 46.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE FINAL STATUS

HB 46

7/10 REFERRED TO TAXATION
 7/11 FIRST READING
 7/11 FISCAL NOTE REQUESTED
 7/13 FISCAL NOTE RECEIVED
 7/13 FISCAL NOTE PRINTED
 7/14 HEARING
 DIED IN COMMITTEE

HB 44 INTRODUCED BY REAM, ET AL.
 IMPOSE 7% SURTAX ON TAXES LEVIED BY THE STATE

7/10	INTRODUCED		
7/10	REFERRED TO TAXATION		
7/11	FIRST READING		
7/11	FISCAL NOTE REQUESTED		
7/13	HEARING		
7/14	FISCAL NOTE RECEIVED		
7/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
7/16	2ND READING PASSED AS AMENDED	52	48
7/16	3RD READING PASSED	52	48

	TRANSMITTED TO SENATE		
7/16	REFERRED TO TAXATION		
7/16	FIRST READING		
7/17	HEARING		
7/17	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
7/17	2ND READING CONCURRED	27	23
7/17	3RD READING CONCURRED	27	23

	RETURNED TO HOUSE WITH AMENDMENTS		
7/18	2ND READING AMENDMENTS CONCURRED	51	45
7/18	3RD READING AMENDMENTS CONCURRED	50	46
7/20	SIGNED BY SPEAKER		
7/20	TRANSMITTED TO GOVERNOR		
8/14	BILL BECAME LAW WITHOUT GOVERNOR'S SIGNATURE PURSUANT TO ART. VI, SEC. 10, MONT. CONST. CHAPTER NUMBER 15		

EFFECTIVE DATE: 08/14/92

HB 45 INTRODUCED BY MCCAFFREE, ET AL.
 IMPOSE A REALTY TRANSFER TAX

7/10 INTRODUCED
 7/10 REFERRED TO TAXATION
 7/11 FIRST READING
 7/11 FISCAL NOTE REQUESTED
 7/14 HEARING
 7/14 FISCAL NOTE RECEIVED
 7/14 FISCAL NOTE PRINTED
 DIED IN COMMITTEE

HB 46 INTRODUCED BY PECK, ET AL.
 PROVIDE RELIABLE CASH FLOW TO SCHOOL DISTRICTS; COUNTY
 EQUALIZATION COLLECTIONS

7/11 INTRODUCED
 7/11 REFERRED TO EDUCATION & CULTURAL RESOURCES
 7/11 FISCAL NOTE REQUESTED
 7/11 FIRST READING
 7/13 HEARING
 7/13 FISCAL NOTE RECEIVED
 7/14 FISCAL NOTE PRINTED

1 House BILL NO. 44
2 INTRODUCED BY Ream Love
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A 7 PERCENT
5 SURTAX ON TAXES LEVIED BY THE STATE OF MONTANA; LIMITING
6 EACH SURTAX TO 1 YEAR; ALLOCATING THE ADDITIONAL REVENUE
7 OTHER THAN THE ADDITIONAL FUEL TAX REVENUE TO THE GENERAL
8 FUND; AMENDING SECTIONS 15-31-121, 15-37-117, 16-1-404,
9 16-1-410, 16-1-411, 16-11-111, 16-11-119, 16-11-202,
10 23-5-610, 33-2-705, 61-3-502, AND 82-11-135, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE, APPLICABILITY DATES,
12 AND TERMINATION DATES."
13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15 NEW SECTION. Section 1. Surtax -- distribution. (1)
16 Each person required to pay the coal gross proceeds tax
17 under this part shall pay, in addition to the tax liability
18 determined under 15-23-703, a surtax of 7% of the tax
19 liability.
20 (2) Notwithstanding the provisions of 15-23-707, the
21 money received from county treasurers from the surtax
22 collected under this section must be deposited to the credit
23 of the state general fund.
24 NEW SECTION. Section 2. Surtax. Each person required
25 to file a Montana individual income tax return shall pay, in

1 addition to the tax liability computed as required in
2 15-30-103, a surtax of 7% of the tax liability.

3 **Section 3.** Section 15-31-121, MCA, is amended to read:

4 "15-31-121. Rate of tax -- minimum tax -- surtax. (1)
5 Except as provided in subsection (2), the percentage of net
6 income to be paid under 15-31-101 shall be 6 3/4% of all net
7 income for the taxable period. The rate set forth in this
8 subsection (1) shall be effective for all taxable years
9 ending on or after February 28, 1971. This rate is
10 retroactive to and effective for all taxable years ending on
11 or after February 28, 1971.

12 (2) For a taxpayer making a water's-edge election, the
13 percentage of net income to be paid under 15-31-101 shall be
14 7% of all taxable net income for the taxable period.

15 (3) Every corporation subject to taxation under this
16 part shall, in any event, pay a minimum tax of not less than
17 \$50.

18 (4) After the amount of tax liability has been computed
19 under subsections (1) through (3), each corporation subject
20 to taxation under this part shall add, as a surtax for--tax
21 year--1988, 4% 7% of the tax liability, and the amount so
22 derived is the amount due the state."

23 NEW SECTION. Section 4. Surtax. (1) Each coal mine
24 operator required to pay the severance tax under this
25 chapter shall pay, in addition to the tax liability computed

under 15-35-103, a surtax of 7% of the tax liability.

(2) The additional tax must be deposited to the credit of the state general fund.

NEW SECTION. Section 5. Surtax. (1) Each person required to pay the state severance tax under this chapter on oil and gas production, other than production from a stripper well, shall pay, in addition to the tax liability computed as required in 15-36-101 and 15-36-121, a surtax of 7% of the tax liability.

(2) Except as provided in Article IX, section 5, of the Montana constitution, the additional tax must be deposited to the credit of the state general fund.

NEW SECTION. Section 6. Surtax -- distribution. Each person required to pay the metal mines license tax under this part shall pay, in addition to the tax liability computed as required in 15-37-103, a surtax of 7% of the tax liability.

Section 7. Section 15-37-117, MCA, is amended to read:

"15-37-117. **Disposition of metalliferous mines license taxes.** (1) ~~Metalliferous~~ Except as provided in subsection (4), metalliferous mines license taxes collected under the provisions of this part are allocated as follows:

(a) to the credit of the general fund of the state, 58% of total collections each year;

(b) to the state special revenue fund to the credit of

a hard-rock mining impact trust account, 1.5% of total collections each year;

(c) to the state resource indemnity trust fund, 15.5% of total collections each year;

(d) to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if no impact plan has been prepared, to the county in which the mine is located, 25% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 40% to the county hard-rock mine trust reserve account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(d)(i) to be further allocated as follows:

(A) 33 1/3% is allocated to the county for planning or economic development activities;

(B) 33 1/3% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33 1/3% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(d) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection (1)(d). The allocation to the county described by subsection (1)(d) is a statutory appropriation pursuant to 17-7-502.

(4) The proceeds of the surtax collected under [section 6] must be deposited to the credit of the general fund."

NEW SECTION. Section 8. Surtax. Each person required to pay the license tax on micaceous minerals under this part shall pay, in addition to the tax liability computed as required in 15-37-201, a surtax of 7% of the tax liability.

NEW SECTION. Section 9. Surtax. (1) Each person required to pay the resource indemnity trust tax under this part shall pay, in addition to the tax liability computed as required in 15-38-104, a surtax of 7% of the tax liability.

(2) The additional tax must be deposited to the credit of the state general fund.

NEW SECTION. Section 10. Surtax. Each person required to pay the electric energy producers' license tax under this

part shall pay, in addition to the tax liability computed as required in 15-51-101, a surtax of 7% of the tax liability.

NEW SECTION. Section 11. Surtax. Each person required to pay the telephone company license tax under this part shall pay, in addition to the tax liability, computed as required in 15-53-101, a surtax of 7% of the tax liability.

NEW SECTION. Section 12. Surtax. Each person required to pay the freight line company license tax under this part shall pay, in addition to the tax liability computed as required in 15-55-102, a surtax of 7% of the tax liability.

NEW SECTION. Section 13. Surtax. Each person required to pay the cement and gypsum producers' license tax under this part shall pay, in addition to the tax liability computed as required in 15-59-102, a surtax of 7% of the tax liability.

NEW SECTION. Section 14. Surtax. Each person required to pay the cement dealers' license tax under this part shall pay, in addition to the tax liability computed as required in 15-59-201, a surtax of 7% of the tax liability.

NEW SECTION. Section 15. Additional tax -- allocation. (1) An additional tax is imposed on the user of a facility at a rate equal to 0.28% of the accommodation charge collected by the facility.

(2) The additional tax must be deposited to the credit of the state general fund.

NEW SECTION. Section 16. Surtax. Each distributor required to pay the gasoline license tax under this part shall pay, in addition to the tax liability computed as required in 15-70-204, a surtax of 7% of the tax liability.

NEW SECTION. Section 17. Surtax -- diesel fuel and volatile liquids. Each special fuel dealer subject to taxation under this part shall pay, in addition to the tax liability computed as required in 15-70-321, a surtax of 7% of the tax liability.

NEW SECTION. Section 18. Surtax -- special fuels. Each special fuel user subject to taxation under this part shall pay, in addition to the tax liability computed as required in 15-70-322, a surtax of 7% of the tax liability.

NEW SECTION. Section 19. Surtax. Each owner or operator subject to a license tax fee under this part shall pay, in addition to the license tax fee determined under 15-71-101(1), a surtax of 7% of the liability.

NEW SECTION. Section 20. Surtax on liquor -- distribution. (1) In addition to the amount of tax liability determined under 16-1-401 through 16-1-404, each person subject to taxation under this part shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

NEW SECTION. Section 21. Surtax on beer --

distribution. (1) After the amount of tax liability has been determined under 16-1-406 and 16-1-408, each wholesaler subject to taxation under this part shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

NEW SECTION. Section 22. Surtax on table wine -- distribution. (1) In addition to the amount of tax liability determined under 16-1-411, each table wine distributor subject to taxation under this part shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

Section 23. Section 16-1-404, MCA, is amended to read:

"16-1-404. License tax on liquor -- amount -- distribution of proceeds. (1) The department is hereby authorized and directed to charge, receive, and collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of:

(a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed, and sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to

1 this section;

2 (b) 8.6% of the retail selling price on all liquor sold
3 and delivered in the state by a company that manufactured,
4 distilled, rectified, bottled, or processed, and sold not
5 more than 200,000 proof gallons of liquor nationwide in the
6 calendar year preceding imposition of the tax pursuant to
7 this section.

8 (2) The license tax shall be charged and collected on
9 all liquor brought into the state and taxed by the
10 department. The retail selling price shall be computed by
11 adding to the cost of said liquor the state markup as
12 designated by the department. The license tax shall be
13 figured in the same manner as the state excise tax and shall
14 be in addition to said state excise tax. The Except as
15 provided in [section 20], the department shall retain in a
16 separate account the amount of the license tax so received.
17 Thirty percent of these revenues are statutorily
18 appropriated, as provided in 17-7-502, to the department and
19 shall be allocated to the counties according to the amount
20 of liquor purchased in each county to be distributed to the
21 incorporated cities and towns, as provided in subsection
22 (3). Four and one-half percent of these revenues are
23 statutorily appropriated, as provided in 17-7-502, and shall
24 be allocated to the counties according to the amount of
25 liquor purchased in each county, and this money may be used

1 for county purposes. The remaining revenues shall be
2 deposited in the state special revenue fund to the credit of
3 the department of corrections and human services for the
4 treatment, rehabilitation, and prevention of alcoholism.
5 Provided, however, in the case of purchases of liquor by a
6 retail liquor licensee for use in his business, the
7 department shall make such regulations as are necessary to
8 apportion that proportion of license tax so generated to the
9 county where the licensed establishment is located, for use
10 as provided in 16-1-405. That proportion of the license tax
11 is statutorily appropriated, as provided in 17-7-502, to the
12 department, which shall pay quarterly to each county
13 treasurer the proportion of the license tax due each county
14 to be allocated to the incorporated cities and towns of the
15 county.

16 (3) The license tax proceeds allocated to the county
17 under subsection (2) for use by cities and towns shall be
18 distributed by the county treasurer to the incorporated
19 cities and towns within 30 days of receipt from the
20 department. The distribution of funds to the cities and
21 towns shall be based on the proportion that the gross sale
22 of liquor in each city or town is to the gross sale of
23 liquor in all of the cities and towns of the county.

24 (4) The license tax proceeds that are allocated to the
25 department of corrections and human services for the

treatment, rehabilitation, and prevention of alcoholism shall be credited quarterly to the department of corrections and human services. The legislature may appropriate a portion of the license tax proceeds to support alcohol programs. The remainder shall be distributed as provided in 53-24-206."

Section 24. Section 16-1-410, MCA, is amended to read:

"16-1-410. Tax revenue allocation. All Subject to [section 21], all revenue received from taxes on beer under 16-1-406 and 16-1-408 over and above \$1.50 per barrel of 31 gallons shall be deposited with the state treasurer to the credit of the incorporated cities and towns beer tax account in the state special revenue fund. The money in the account is statutorily appropriated, as provided in 17-7-502, to the state treasurer who shall, monthly, distribute this amount of money to the incorporated cities and towns in the direct proportion that the population of each city and town bears to the total population of all incorporated cities and towns as shown in the latest official federal census. For cities and towns incorporated after the latest official federal census, the census shall be determined as of the date of incorporation as evidenced by the certificate of the incorporating officials of that city or town. If a city or town disincorporates, it may not receive any funds under this section and the amount previously distributed to the

city or town shall be distributed to the remaining incorporated cities and towns. All funds received by cities and towns under this section shall be expended for state purposes such as law enforcement, maintenance of the transportation system, and public health."

Section 25. Section 16-1-411, MCA, is amended to read:

"16-1-411. Tax on wine. (1) A tax of 27 cents per liter is hereby levied and imposed on table wine imported by any table wine distributor or the department.

(2) (a) The tax on table wine imported by a table wine distributor shall be paid by the table wine distributor by the 15th day of the month following sale of the table wine from the table wine distributor's warehouse. Failure to file a table wine tax return or failure to pay the tax required by this section subjects the table wine distributor to the penalties and interest provided for in 16-1-409.

(b) The tax on table wine imported by the department shall be collected at the time of sale.

(3) The tax paid by a table wine distributor in accordance with subsection (2)(a) and the tax collected by the department in accordance with subsection (2)(b) shall be distributed as follows:

(a) 16 cents to the state general fund; and

(b) of the remaining 11 cents:

(i) 8.34 cents to the state special revenue fund to the

credit of the department of corrections and human services for the treatment, rehabilitation, and prevention of alcoholism;

(ii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the counties, based on population, for the purpose established in 16-1-404; and

(iii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the cities and towns, based on population, for the purpose established in 16-1-405.

(4) The tax taxes computed and paid in accordance with 16-2-301, [section 22], and this section shall be the only tax taxes imposed by the state or any of its subdivisions, including cities and towns.

(5) The proceeds of the surtax imposed by [section 22] must be deposited in the state general fund."

Section 26. Section 16-11-111, MCA, is amended to read:

"16-11-111. Cigarette sales tax. There is levied, imposed, and assessed and there must be collected and paid to the state of Montana upon cigarettes sold or possessed in this state an excise tax of ~~18~~ 19.26 cents on each package containing 20 cigarettes and, when packages contain more or less than 20 cigarettes, a tax on each cigarette equal to 1/20th the tax on a package containing 20 cigarettes."

Section 27. Section 16-11-119, MCA, is amended to read:

"16-11-119. Disposition of taxes -- retirement of bonds. All moneys collected under the provisions of 16-11-111, less the expense of collecting all the taxes levied, imposed, and assessed by said section, shall be paid to the state treasurer and deposited as follows: ~~70-89%~~ 72.79% in the long-range building program fund in the debt service fund type and ~~29-11%~~ 27.21% in the long-range building program fund in the capital projects fund type."

Section 28. Section 16-11-202, MCA, is amended to read:

"16-11-202. Tax on sale of tobacco other than cigarettes -- imposed on retail consumer -- rate of tax. (1) All taxes paid pursuant to the provisions of this section shall be exclusively presumed to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person, such payment shall be considered as an advance payment and shall be added to the price of tobacco products other than cigarettes and recovered from the ultimate consumer or user. Any person selling tobacco products other than cigarettes at retail shall state or separately display in the premises where such products are sold a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section shall in no way affect the method of collection of such tax as hereinafter

1 provided.

2 (2) There is hereby levied, imposed, and assessed upon
3 tobacco products other than cigarettes sold or possessed in
4 this state and there shall be collected and paid to the
5 state of Montana a tax of ~~12-1/2%~~ 13.38% of the wholesale
6 price of such products to the wholesaler, excepting
7 therefrom such products as may be shipped from Montana and
8 destined for retail sale and consumption outside the state
9 of Montana."

10 **NEW SECTION. Section 29. Surtax -- distribution.** (1)
11 In addition to the amount of tax liability determined under
12 23-5-610, each licensed operator subject to taxation under
13 this part shall pay, as a surtax, 7% of the tax liability.

14 (2) The surtax imposed by this section must be
15 deposited to the credit of the state general fund.

16 **Section 30.** Section 23-5-610, MCA, is amended to read:

17 **"23-5-610. Video gambling machine gross income tax --**
18 **records -- distribution -- quarterly statement and payment.**

19 (1) A licensed operator issued a permit under this part
20 shall pay to the department a video gambling machine tax of
21 15% of the gross income from each video gambling machine
22 licensed under this part. A licensed operator may deduct
23 from the gross income amounts equal to amounts stolen from
24 machines if the amounts are not repaid by insurance and if a
25 law enforcement agency investigated the theft.

1 (2) A licensed operator issued a permit under this part
2 shall keep a record of the gross income from each machine in
3 such form as the department may require. The records must at
4 all times during the business hours of the licensee be
5 subject to inspection by the department.

6 (3) A licensed operator issued a permit under this part
7 shall, within 15 days after the end of each quarter,
8 complete and deliver to the department a statement showing
9 the total gross income from each video gambling machine
10 licensed to him, together with the total amount due the
11 state as video gambling machine gross income tax for the
12 preceding quarter. The statement must contain other relevant
13 information as the department may require.

14 (4) (a) The department shall forward one-third of the
15 tax collected under subsection (3) and the surtax imposed by
16 [section 29] to the general fund.

17 (b) The department shall forward the remaining
18 two-thirds of the tax collected under subsection (3) to the
19 treasurer of the county or the clerk, finance officer, or
20 treasurer of the city or town in which the licensed machine
21 is located, for deposit to the county or municipal treasury.
22 Counties are not entitled to proceeds from taxes on income
23 from video gambling machines located in incorporated cities
24 and towns. The two-thirds local government portion of tax
25 collected under subsection (3) is statutorily appropriated

1 to the department as provided in 17-7-502 for deposit to the
2 county or municipal treasury."

3 **Section 31.** Section 33-2-705, MCA, is amended to read:

4 "33-2-705. Report on premiums and other consideration
5 -- tax. (1) Each authorized insurer and each formerly
6 authorized insurer with respect to premiums so received
7 while an authorized insurer in this state shall file with
8 the commissioner, on or before March 1 each year, a report
9 in form as prescribed by the commissioner showing total
10 direct premium income, including policy, membership, and
11 other fees, premiums paid by application of dividends,
12 refunds, savings, savings coupons, and similar returns or
13 credits to payment of premiums for new or additional or
14 extended or renewed insurance, charges for payment of
15 premium in installments, and all other consideration for
16 insurance from all kinds and classes of insurance, whether
17 designated as a premium or otherwise, received by a life
18 insurer or written by an insurer other than a life insurer
19 during the preceding calendar year on account of policies
20 covering property, subjects, or risks located, resident, or
21 to be performed in Montana, with proper proportionate
22 allocation of premium as to such property, subjects, or
23 risks in Montana insured under policies or contracts
24 covering property, subjects, or risks located or resident in
25 more than one state, after deducting from such total direct

1 premium income applicable cancellations, returned premiums,
2 the unabsorbed portion of any deposit premium, the amount of
3 reduction in or refund of premiums allowed to industrial
4 life policyholders for payment of premiums direct to an
5 office of the insurer, all policy dividends, refunds,
6 savings, savings coupons, and other similar returns paid or
7 credited to policyholders with respect to such policies. As
8 to title insurance, "premium" includes the total charge for
9 such insurance. No deduction shall be made of the cash
10 surrender values of policies. Considerations received on
11 annuity contracts shall not be included in total direct
12 premium income and shall not be subject to tax.

13 (2) Coincident with the filing of the tax report
14 referred to in subsection (1) above, each such insurer shall
15 pay to the commissioner a tax upon such net premiums
16 computed at the rate of 2 3/4%.

17 (3) That portion of the tax paid hereunder by an
18 insurer on account of premiums received for fire insurance
19 shall be separately specified in the report as required by
20 the commissioner, for apportionment as provided by law.
21 Where insurance against fire is included with insurance of
22 property against other perils at an undivided premium, the
23 insurer shall make such reasonable allocation from such
24 entire premium to the fire portion of the coverage as shall
25 be stated in such report and as may be approved or accepted

1 by the commissioner.

2 (4) With respect to authorized insurers, the premium
3 tax taxes provided by this section part shall be payment in
4 full and in lieu of all other demands for any and all state,
5 county, city, district, municipal, and school taxes,
6 licenses, fees, and excises of whatever kind or character,
7 excepting only those prescribed by this code, taxes on real
8 and tangible personal property located in this state, and
9 taxes payable under 50-3-109.

10 (5) The commissioner may suspend or revoke the
11 certificate of authority of any insurer which fails to pay
12 its taxes as required under this section.

13 (6) In addition to the penalty provided for in
14 subsection (5), the commissioner may impose upon an insurer
15 who fails to pay the tax required under this section a fine
16 of \$100 a day for each day the tax remains unpaid past the
17 due date or 1% of the amount owed in tax, whichever is
18 greater.

19 (7) The commissioner may by rule provide a quarterly
20 schedule for payment of portions of the premium tax under
21 this section during the year in which such tax liability is
22 accrued."

23 NEW SECTION. **Section 32. Surtax -- distribution.** (1)

24 In addition to the amount of tax liability determined under
25 33-2-311, 33-2-705, 33-2-710, or 33-22-1205, each insurer

1 subject to taxation under 33-2-311, 33-2-705, 33-2-710, or
2 33-22-1205 shall pay, as a surtax, 7% of the tax liability.

3 (2) The surtax imposed by this section must be
4 deposited to the credit of the state general fund.

5 **Section 33.** Section 61-3-502, MCA, is amended to read:

6 "61-3-502. Sales tax on new motor vehicles --
7 exemptions. (1) In consideration of the right to use the
8 highways of the state, there is imposed a tax upon all sales
9 of new motor vehicles, excluding trailers, semitrailers, and
10 housetrailer, for which a license is sought and an original
11 application for title is made. The tax must be paid by the
12 purchaser when he applies for his original Montana license
13 through the county treasurer.

14 (2) Except as provided in subsections (4) and (5), the
15 sales tax is:

16 (a) 1 1/2% of the f.o.b. factory list price or f.o.b.
17 port-of-entry list price, during the first quarter of the
18 year or for a registration period other than a calendar year
19 or calendar quarter;

20 (b) 1 1/8% of the list price during the second quarter
21 of the year;

22 (c) 3/4 of 1% during the third quarter of the year;

23 (d) 3/8 of 1% during the fourth quarter of the year.

24 (3) If the manufacturer or importer fails to furnish
25 the f.o.b. factory list price or f.o.b. port-of-entry list

1 price, the department may use published price lists.

2 (4) The new car sales tax on vehicles subject to the
3 provisions of 61-3-313 through 61-3-316 is 1 1/2% of the
4 f.o.b. factory list price or f.o.b. port-of-entry list price
5 regardless of the month in which the new vehicle is
6 purchased.

7 (5) The sales tax on new motor vehicles registered as
8 part of a fleet under 61-3-318 is 3/4 of 1% of the f.o.b.
9 factory list price or f.o.b. port-of-entry list price.

10 (6) The Except as provided in [section 34], the
11 proceeds from this tax must be remitted to the state
12 treasurer every 30 days for credit to the state highway
13 account of the state special revenue fund.

14 (7) The new vehicle is not subject to any other
15 assessment, fee in lieu of tax, or tax during the calendar
16 year in which the original application for title is made.

17 (8) (a) The applicant for original registration of any
18 new and unused motor vehicle, or a new motor vehicle
19 furnished without charge by a dealer to a school district
20 for use as a traffic education motor vehicle by a school
21 district operating a state-approved traffic education
22 program within the state, whether or not previously licensed
23 or titled to the school district (except a mobile home as
24 defined in 15-1-101(1)), acquired by original contract after
25 January 1 of any year, is required, whenever the vehicle has

1 not been otherwise assessed, to pay the motor vehicle sales
2 tax provided by this section irrespective of whether the
3 vehicle was in the state of Montana on January 1 of the
4 year.

5 (b) No motor vehicle may be registered or licensed
6 under the provisions of this subsection unless the
7 application for registration is accompanied by a statement
8 of origin to be furnished by the dealer selling the vehicle,
9 showing that the vehicle has not previously been registered
10 or owned, except as otherwise provided herein, by any
11 person, firm, corporation, or association that is not a new
12 motor vehicle dealer holding a franchise or distribution
13 agreement from a new car manufacturer, distributor, or
14 importer.

15 (9) (a) Motor vehicles operating exclusively for
16 transportation of persons for hire within the limits of
17 incorporated cities or towns and within 15 miles from such
18 limits are exempt from subsection (1).

19 (b) Motor vehicles brought or driven into Montana by a
20 nonresident, migratory, bona fide agricultural worker
21 temporarily employed in agricultural work in this state
22 where those motor vehicles are used exclusively for
23 transportation of agricultural workers are also exempt from
24 subsection (1).

25 (c) Vehicles lawfully displaying a licensed dealer's

plate as provided in 61-4-103 are exempt from subsection (1) when moving to or from a dealer's place of business when unloaded or loaded with dealer's property only, and in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being demonstrated in the course of the dealer's business."

NEW SECTION. Section 34. Surtax -- distribution. (1) In addition to the amount of tax liability determined under 61-3-502, each purchaser of a new vehicle subject to taxation under this part shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

NEW SECTION. Section 35. Surtax. Each person required to pay a fee under this part shall pay, in addition to the fee, a surtax of 7% of the fee.

NEW SECTION. Section 36. Surtax. Each person required to pay the inheritance tax under the provisions of parts 1 through 8 shall pay, in addition to the tax liability determined under 72-16-321 and 72-16-322, a surtax of 7% of the tax liability.

NEW SECTION. Section 37. Surtax. Each person required to pay the generation-skipping transfer tax under this part shall pay, in addition to the tax liability determined under 72-16-1002, a surtax of 7% of the tax liability.

Section 38. Section 82-11-135, MCA, is amended to read:

"82-11-135. Money earmarked for board expenses. ~~All~~ Except as provided in [section 39], all money collected under this chapter shall be deposited in the state special revenue fund by the state treasurer and shall be used for the purpose of paying all expenses of the board and for no other purpose. All these moneys shall be used by the board subject to biennial appropriations by the legislature. Income and interest from investment of the board's moneys in the state special revenue fund shall be credited to the board."

NEW SECTION. Section 39. Surtax. (1) Each person required to pay the tax under this part shall pay, in addition to the tax liability determined under 82-11-131, a surtax of 7% of the tax liability.

(2) The additional tax must be deposited to the credit of the general fund.

NEW SECTION. Section 40. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 23, part 7, and the provisions of Title 15, chapter 23, part 7, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 2].

1 (3) [Section 4] is intended to be codified as an
 2 integral part of Title 15, chapter 35, part 1, and the
 3 provisions of Title 15, chapter 35, part 1, apply to
 4 [section 4].

5 (4) [Section 5] is intended to be codified as an
 6 integral part of Title 15, chapter 36, part 1, and the
 7 provisions of Title 15, chapter 36, part 1, apply to
 8 [section 5].

9 (5) [Section 6] is intended to be codified as an
 10 integral part of Title 15, chapter 37, part 1, and the
 11 provisions of Title 15, chapter 37, part 1, apply to
 12 [section 6].

13 (6) [Section 8] is intended to be codified as an
 14 integral part of Title 15, chapter 37, part 2, and the
 15 provisions of Title 15, chapter 37, part 2, apply to
 16 [section 8].

17 (7) [Section 9] is intended to be codified as an
 18 integral part of Title 15, chapter 38, part 1, and the
 19 provisions of Title 15, chapter 38, part 1, apply to
 20 [section 9].

21 (8) [Section 10] is intended to be codified as an
 22 integral part of Title 15, chapter 51, part 1, and the
 23 provisions of Title 15, chapter 51, part 1, apply to
 24 [section 10].

25 (9) [Section 11] is intended to be codified as an

1 integral part of Title 15, chapter 53, part 1, and the
 2 provisions of Title 15, chapter 53, part 1, apply to
 3 [section 11].

4 (10) [Section 12] is intended to be codified as an
 5 integral part of Title 15, chapter 55, part 1, and the
 6 provisions of Title 15, chapter 55, part 1, apply to
 7 [section 12].

8 (11) [Section 13] is intended to be codified as an
 9 integral part of Title 15, chapter 59, part 1, and the
 10 provisions of Title 15, chapter 59, part 1, apply to
 11 [section 13].

12 (12) [Section 14] is intended to be codified as an
 13 integral part of Title 15, chapter 59, part 2, and the
 14 provisions of Title 15, chapter 59, part 2, apply to
 15 [section 14].

16 (13) [Section 15] is intended to be codified as an
 17 integral part of Title 15, chapter 65, part 1, and the
 18 provisions of Title 15, chapter 65, part 1, apply to
 19 [section 15].

20 (14) [Section 16] is intended to be codified as an
 21 integral part of Title 15, chapter 70, part 2, and the
 22 provisions of Title 15, chapter 70, part 2, apply to
 23 [section 16].

24 (15) [Sections 17 and 18] are intended to be codified as
 25 an integral part of Title 15, chapter 70, part 3, and the

provisions of Title 15, chapter 70, part 3, apply to [sections 17 and 18].

(16) [Section 19] is intended to be codified as an integral part of Title 15, chapter 71, part 1, and the provisions of Title 15, chapter 71, part 1, apply to [section 19].

(17) [Sections 20 through 22] are intended to be codified as an integral part of Title 16, chapter 1, part 4, and the provisions of Title 16, chapter 1, part 4, apply to [sections 20 through 22].

(18) [Section 29] is intended to be codified as an integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, part 6, apply to [section 29].

(19) [Section 32] is intended to be codified as an integral part of Title 33, chapter 2, part 7, and the provisions of Title 33, chapter 2, part 7, apply to [section 32].

(20) [Section 34] is intended to be codified as an integral part of Title 61, chapter 3, part 5, and the provisions of Title 61, chapter 3, part 5, apply to [section 34].

(21) [Section 35] is intended to be codified as an integral part of Title 61, chapter 10, part 2, and the provisions of Title 61, chapter 10, part 2, apply to

[section 35].

(22) [Section 36] is intended to be codified as an integral part of Title 72, chapter 16, part 3, and the provisions of Title 72, chapter 16, part 3, apply to [section 36].

(23) [Section 37] is intended to be codified as an integral part of Title 72, chapter 16, part 10, and the provisions of Title 72, chapter 16, part 10, apply to [section 37].

(24) [Section 39] is intended to be codified as an integral part of Title 82, chapter 11, part 1, and the provisions of Title 82, chapter 11, part 1, apply to [section 39].

NEW SECTION. Section 41. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 42. Applicability -- termination.

(1) (a) [Sections 2, 3, and 12] apply retroactively, within the meaning of 1-2-109, to the tax year beginning after December 31, 1991, and ending before January 1, 1993.

(b) [Sections 2, 3, and 12] terminate upon receipt of taxes for tax year 1992.

(2) (a) [Sections 4, 5, and 8] apply retroactively, within the meaning of 1-2-109, to production occurring after June 30, 1992, and before July 1, 1993.

(b) [Sections 4, 5, and 8] terminate upon receipt of

taxes on production occurring prior to July 1, 1993.

(3) (a) [Sections 1, 6, 7, and 9] apply retroactively, within the meaning of 1-2-109, to production occurring after December 31, 1991, and before January 1, 1993.

(b) [Sections 1, 6, 7, and 9] terminate upon receipt of taxes on production occurring prior to January 1, 1993.

(4) (a) [Sections 10, 11, 13 through 15, 18, 20, 23, and 29 through 32] apply retroactively, within the meaning of 1-2-109, to tax liabilities for calendar quarters beginning after June 30, 1992, and before July 1, 1993.

(b) [Sections 10, 11, 13 through 15, 18, 20, 23, and 29 through 32] terminate upon receipt of taxes for the quarter ending June 30, 1993.

(5) (a) [Sections 16, 17, 21, 22, 24 through 28, and 33 through 35] apply for 1 calendar year to tax or fee liabilities for months beginning after [the effective date of this act].

(b) [Sections 16, 17, 21, 22, 24 through 28, and 33 through 35] terminate upon receipt of taxes or fees for the final month of applicability.

(6) (a) [Sections 19, 38, and 39] apply to the tax year beginning after December 31, 1992, and ending before January 1, 1994.

(b) [Sections 19, 38, and 39] terminate upon receipt of taxes for tax year 1993.

(7) (a) [Sections 36 and 37] apply to the estate of a person who dies after [the effective date of this act] and before [1 year from the effective date of this act].

(b) [Sections 36 and 37] terminate upon receipt of taxes from the estates of persons who died during the period of applicability.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - 2nd SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on July 13, 1992, at 4:00 p.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Royhans, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 44Presentation and Opening Statement by Sponsor:

REP. REAM, District 54, Missoula, said he had a 10% income tax surcharge bill ready to submit, however, it would have to be raised to 20% to cover the escalating deficit problem. Under the provisions of HB 44 everyone has to "bite the bullet" and pay a 7% surcharge on the various taxes already in effect. REP. REAM submitted a estimate of revenues from the Legislative Fiscal Analyst (LFA) (Exhibit #1). He said the bill imposes a 7% surtax on all taxing entities except personal property tax for a one year period. He noted the gasoline tax, the diesel tax, and the GVW tax will continue to go into the Highway Fund. He said we are dealing with a serious problem, we must get serious about it, and find a serious solution. He noted there are some technical drafting errors in the bill on page 28, line 17, following "12", insert "31, and 32", page 9, line 8, strike "32" and insert "30", line 11, strike "20 and "23" and reinsert on line 14. Another technical correction is to be made on page 3, striking lines 2 and 3, and inserting the language in lines 10, 11, and 12.

Proponents' Testimony:

SEN. TOWE, District 46, Billings, said the bill is not his first preference. He said the legislature should cap federal deductibility instead of singling out any group of taxpayers or businesses. He pointed out this is a 7% surcharge, not a 7% tax increase. It is a surtax on the percentage of tax already applied to a specific entity. For example, the video gaming tax increases from 15% to 16.05% with the surtax applied, not from 15% to 22% if it were a 7% tax increase. Sen. Towe said the oil and gas severance tax and local government severance tax had been eliminated on all stripper wells. The change was not reflected in the estimates (Exhibit #1), but figures would be available for the Committee. He said there is no surcharge on driver license and car registration fees. He then reviewed the bill section by section for the Committee. He noted the retroactivity and termination section states that the surtax terminates upon receipt of all collections.

REP. DRISCOLL, District 92, Billings, said the bill is a good idea but it needs to be amended to be retroactive if corporations and income are taxed this late in the year. He suggested amending the bill to extend for two years rather than one year. In the first year there would be a 2.3% surcharge with the withholding at 7%. As the bill is written, the withholding would have to be at least 21% beginning September, 1992. In the second year, the surtax would be 4.66%. Consumables such as gasoline, cigarettes, and coal cannot be taxed retroactively as those taxes are already paid and the consumables are gone. The surtax on consumable items would have to begin July 1 and continue for four quarters. He said Section 4 would have to be amended also.

It would be called the General Fund Stabilization Tax and would be equal to 7% of the tax liability computed under 15-35-103, MCA, (severance tax). It would total \$2.9 million over the four quarters and would go into the General Fund, nothing being deposited to the Trust Fund. He suggested removing inheritance taxes from the bill altogether as there would be no revenue derived from them in this biennium. The liquor tax is a compounding tax and therefore the surtax should be applied only to the 16% liquor excise tax. He said the bill can work, but only if it is applied to the broadest section of the populace possible with the least pain possible.

Eric Feaver, President, Montana Education Association, (MEA), expressed support for the bill saying the piecemeal approach will not work. The surtax is the least painful and fairest way to approach the funding problem. He said schools will take a hit no matter what solution is found. This is an excellent way to share the responsibility.

CHAIRMAN HARRINGTON asked for opponents and asked them to make suggestions for other solutions to the funding problem.

Opponents' Testimony:

Dennis Burr, Montana Taxpayers Association, expressed opposition to the retroactivity provision and agreed with Rep. Driscoll's suggestions re corporate income tax and withholding. The bill is full of different fiscal year and calendar year dates. He said, as closely as possible, the surcharge should be paid in the same year. He agreed the inheritance tax section should be stricken as well as gross proceeds of coal and local government severance tax which are local property taxes, not state taxes. There are two problems to be addressed in this session. First, is the ongoing deficit problem which has occurred 9 out of the last 11 years. The second is the cash flow problem. This bill addresses the cash flow problem but does not solve the deficit problem. One of the problems of using this bill to solve an ongoing structural deficit is taking the same tired tax system we have endured for the past 20 years and "lagging it up" by 7%. The same system that cannot keep up with the demand for services at the current rate certainly cannot keep up if it is lagged up 7% for the next year. It simply builds in an extra 7% spending component for one year over what the tax system will produce. The resultant funding problem next January and for the years to come will simply be that much larger. Some of the problem must be solved from the budget side. Larger cuts must be made in the budget than have been made the first week and a half of the special session if any progress is to be made on a \$100 million problem. With the deficit at the current level, the surtax would have to run far into the next biennium in order to pay off the debts of this biennium. He said looking at the budget more closely in combination with this bill would be his suggestion for solving the problem.

John Lahr, Montana Power Company and Entech, submitted a statement of taxes paid to the state in 1990 and 1991 (Exhibit #2). He said the companies he represents have the same problem as the legislature. The budgets are not being met by the income generated. Their Boards of Directors are meeting to reduce expenditures also. He said in FY 1991, Montana Power/ Entech paid \$73,600,000 in taxes to state and local governments. That is 5.5% of the total revenues collected by those entities which seems to be an excessive amount. The cost of HB 44 would be an additional \$2.4 million which is 5% of the total collections anticipated by REP. REAM in Exhibit #1. He said that seems to be an excessive amount also. They would appreciate a reduction in the amount of surtax.

Jerome Anderson, Shell Oil Company and Shell Exploration and Production, the largest producer of crude oil in Montana, opposed the bill because it only exacerbates the problem and adds to the existing inequity. Shell is reducing its work force and selling a lot of its domestic holdings. The surtax hits Shell in five different areas. Shell pays the highest state taxes in the United States; this bill just makes it more inequitable. He said there is no fiscal note with the bill which just adds to the uncertainty. Further, he said consideration of this bill is premature until the budget trimming is completed and finally adopted. He ended with the familiar phrase, "Pay more? What for?".

Dan Walker, US West, presented his testimony in opposition to the bill (Exhibit #3).

Russ Ritter, Washington Corporation, said they pay \$13 million in taxes now. This bill would add another \$1 million to their tax burden. He said the accounting problems would be difficult as they have 10 different companies all of which are affected differently by the surcharge.

James Mockler, Montana Coal Council, said he agrees with the testimony provided by the oil and gas industries. He said taxes on gross proceeds are taxes on personal property which are not to be taxed under the provisions of this bill. Gross proceeds, RITT, and severance taxes have nothing to do with profitability. They are paid whether there is a profit or loss. He asked the Committee to carefully review page 3 of the bill re the oil and gas severance tax. He said he did not believe half of that tax could be put into the permanent coal tax fund if the purpose of the tax is to solve the current deficit problem.

Jim Tutwiler, Montana Chamber of Commerce, submitted a poll of 800 voters conducted in March, 1992, regarding economic issues in Montana (Exhibit #4). He reviewed the survey with the Committee and asked them to take the results into consideration as they consider the bill.

Riley Johnson, National Federation of Independent Business, said his organization is opposed to any tax increase imposed to meet the budget deficit. The solution is to make cuts in the budget and institute across the board tax reform. A poll of the Federation membership showed 59% favor a sales tax if there needs to be a tax. He said the surtax, if it passes, should not be extended into the next biennium. This bill is only a continuation of the spending policies of the past. The state needs cuts in spending and true tax reform.

Gary Langley, Executive Director, Montana Mining Association, said he realizes what a tough job the legislature is facing. He said this bill is not equitable and does not expand the tax base. He said it asks industries that are already paying millions and millions of tax dollars to do even more. They are impacted several different ways in this bill. Any profits the mining industry will make will be very minor. As it is, the state makes more money in severance taxes than the mining companies make in profit. It is not possible to pass a tax increase on to the consumer in the mining industry. This bill does not encourage productivity. He urged the Committee to adopt legislation that would expand the Montana tax base.

Gloria Paladichuk, Richland County Commissioner and representing the Oil and Gas Counties, said the bill indicates there is no stability in Montana tax policy, especially as it impacts the oil and gas industry. There are several problems with the bill, notably the local government severance tax (LGST). That tax is collected at the state level for the exclusive use of local governments. There is no provision for local government on the program computer charges that will have to be administered by the counties. The surtax would be very detrimental to new car sales as there is a month allowance for driving on the new car sticker. If a car is bought in the FY without the tax, but licensed in the FY the tax is in effect, there would be a question about the imposition of the surtax.

Ben Havdahl, Montana Motorcarriers Association, said he agrees with the previous testimony regarding the various ways the surtax will impact the companies he represents. Of particular concern is the application of the surtax to highway user taxes, e.g. fuel tax increases and gross vehicle weight fees which are earmarked taxes. The Federal Highway Act has just been passed with additional revenue to Montana of approximately \$178 million per year. Fees and fuel taxes are going to be needed to meet those matching funds. A surtax increase would compound the problems truckers are facing with a 31% increase in workers' compensation insurance premiums that went into effect July 1, 1992. That is a 92% increase in workers' compensation premiums in the last two years. He said raising highway taxes to put into the highway fund so that they can be borrowed by the general fund as a bailout is futile as there is no revenue available to the general fund to pay back those borrowed funds.

Janelle Fallon, Montana Petroleum Association, said Montana's composite taxes on oil and gas are the highest in the nation. The tax on natural gas wells drilled before 1985 would be 20%, an insurmountable burden for those companies selling to the east coast. She echoed concerns previously expressed about the LGST and other earmarked taxes going into the general fund instead of to local communities and other specific entities.

Roger Tippy, Beer and Wine Wholesalers, said he agreed with the previous testimony. He said this is a typical end of session bill, however, it is a little early as the Senate has not made its cuts and the budget bill is not final. He felt the surtax might have to be as high as 8%-10% after that process is complete.

Jim Paladichuk, Montana Dakota Utilities, said he agreed with Mr. Lahr's testimony and opposed the bill.

Tom Hopgood, Health Insurance Association of America, Air Transport Association, Montana Association of Realtors, and GTE of the Northwest, said this bill is only a temporary solution to an ongoing problem. He feared there would be an extension of the surcharge beyond the one year limit.

REP. KASTEN, District 28, Brockway, said the people have said they do not want any more taxes, they want jobs. She urged the Committee to quit pushing business out of the state.

SEN. TVEIT, District 11, Fairview, said the bill sends a "Don't Come" message to businesses interested in locating in Montana.

Informational Testimony:

REP. ELLIOTT, District 51, Trout Creek, said the Montana taxpayer is conspicuous by his/her absence. He, therefore, said he represented the taxpayer both as a Representative and as an individual. He said he feels the absence of the taxpayer is not to imply that they do not care. He felt sure that the taxpayers will dig deep if they have to to support the state. He said the state has forgiven millions of dollars to many of the groups who opposed the bill. They have been the recipients of very hefty tax breaks, some of which are still in effect. The state gave away money it did not have to give away. REP. ELLIOTT said if taxpayers are not protesting this surtax, businesses should be willing to do their fair share also.

Questions From Committee Members:

REP. WANZENRIED, District 7, Kalispell, asked Denis Adams, Director, Department of Revenue (DOR), if the administration has a position on the bill.

Mr. Adams replied the administration has no opinion at this point. They are watching the bill as it progresses. The

administration recognizes the need for revenue and has taken a position on that need. DOR has been working on an analysis for the fiscal note. The full determination has not been made because the information on budget cuts is not yet available.

In reply to a question by **REP. SCHYE, SEN. TOWE** said this bill represents vertical equity. Everyone pays approximately the same amount proportionately. Montana taxes are slightly progressive until you get to the top 1% of taxpayers. Montana has a very equitable tax system. He rebutted **Mr. Lahr's** testimony saying the total taxes paid by all the companies that pay similar taxes to Montana Power/Entech do not total \$2.4 million. **Mr. Anderson** said the surtax hits his companies 6 times, **REP. DRISCOLL** indicated it impacts some individuals 16 times. Perhaps the companies should be paying even more if we are to be equitable. He said his information indicates that there are other states with higher oil and gas severance taxes than Montana. He would be willing to share that information with anyone who is interested. The large revenues on the chart in Exhibit #1 are coming from the individual income tax category. Large cuts in education mean school districts will increase mill levies and then the opponents will certainly pay taxes higher than those in HB 44. He noted all taxes on GVW and highway user fees will be deposited to the highway fund so the state can then borrow from that fund.

Closing by Sponsor:

REP. REAM closed saying he came into the session willing to compromise and work with the Republicans in order to solve some of the tremendous problems facing the state. He said listening to the opponents made him alternately sad and angry. There was not a single suggestion from a single opponent for an alternative solution to the revenue shortfall. There were some constructive suggestions such as **REP. DRISCOLL'S** amendments and **Mr. Burr's** comments which **REP. REAM** said he would agree to adopt. He agreed this bill does not solve the structural deficit. He said since tax indexing began in 1981, the state has lost \$73 million a year. He noted Montana Power paid \$2.2 million less in tax revenue in 1991 than they did in 1990 and \$1.8 million less in corporation license taxes for a total \$4 million reduction in taxes to Montana Power and the state in one year. He noted a \$4 million increase in dividends paid in 1991. He said will naturally show that no one wants to pay more taxes. All he heard during the hearing was greed oozing all over the room. He said if everyone is so opposed to this bill, then where is the plan? The gaming tax was defeated, the administration has no plan. He asked if this bill is not a compromise, if it is not equitable, what is? He said he now determined not to introduce his 10% income tax surcharge bill. It is time to do what the legislature was called into special session to do. Realistically, there will probably be no more than \$20 million in budget cuts. He said the Committee should support this bill or find a better alternative.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE

7/13/92

NAME	PRESENT	ABSENT	EXCUSED
REP. BEN COHEN, VICE-CHAIRMAN	X		
REP. ED DOLEZAL	X		
REP. JIM ELLIOTT	X		
REP. ORVAL ELLISON	X		
REP. RUSSELL FAGG	X		
REP. MIKE FOSTER	X		
REP. BOB GILBERT	X		
REP. MARIAN HANSON	X		
REP. DAVID HOFFMAN	X		
REP. JIM MADISON	X		
REP. ED MCCAFFREE	X		
REP. BEA MCCARTHY	X		
REP. TOM NELSON	X		
REP. MARK O'KEEFE	X		
REP. BOB RANEY	X		
REP. BOB REAM, VICE-CHAIRMAN	X		
REP. TED SCHYE	X		
REP. BARRY "SPOOK" STANG	X		
REP. FRED THOMAS	X		
REP. DAVE WANZENRIED	X		
REP. DAN HARRINGTON, CHAIRMAN	X		

Office of Legislative Fiscal Analyst
Fiscal Impact of House Bill 44

Amounts in Millions

DRAFT REPORT
SUBJECT TO REVISION

Source of Revenue	HJR 2 Estimate	Total Estimate	Adjmts.	Adjusted Total	Surtax 7.0000%	Cash Proportion	Accrual Proportion	Fiscal 1994 Proportion	Available Cash	Accrued Revenue	Fiscal 1994 Revenue	GF Revenue
Individual Income Tax	211.449	336.702	(43.871)	292.831	20.498	1.000	0.000	0.000	20.498	0.000	0.000	20.498
Corporation Income Tax	36.186	59.321	(3.486)	55.835	3.908	1.000	0.000	0.000	3.908	0.000	0.000	3.908
Coal Severance Tax	11.461	41.844	(20.922)	20.922	1.465	0.750	0.250	0.000	1.099	0.366	0.000	1.465
Oil Severance Tax	15.796	15.796	0.000	15.796	1.106	0.750	0.250	0.000	0.830	0.277	0.000	1.107
Insurance Premiums Tax	20.025	30.861	0.000	30.861	2.160	1.000	0.000	0.000	2.160	0.000	0.000	2.160
Liquor Excise Tax	6.128	6.128	0.000	6.128	0.429	0.917	0.083	0.000	0.393	0.036	0.000	0.429
Liquor License Tax	3.830	3.830	0.000	3.830	0.268	0.917	0.083	0.000	0.246	0.022	0.000	0.268
Metal Mines Tax	3.654	6.300	0.000	6.300	0.441	1.000	0.000	0.000	0.441	0.000	0.000	0.441
Electrical Energy Tax	4.131	4.131	0.000	4.131	0.289	0.750	0.250	0.000	0.217	0.072	0.000	0.289
Telephone License Tax	4.283	4.283	0.000	4.283	0.300	0.750	0.250	0.000	0.225	0.075	0.000	0.300
Beer License Tax	1.342	3.206	0.000	3.206	0.224	0.833	0.083	0.083	0.187	0.019	0.019	0.206
Natural Gas Severance Tax	1.241	1.241	0.000	1.241	0.087	0.750	0.250	0.000	0.065	0.022	0.000	0.087
Freight Line Tax	1.268	1.268	0.000	1.268	0.089	1.000	0.000	0.000	0.089	0.000	0.000	0.089
Wine Tax	0.796	1.343	0.000	1.343	0.094	0.833	0.083	0.083	0.078	0.008	0.008	0.086
Video Gaming Net Income Tax	8.360	25.080	0.000	25.080	1.756	0.750	0.250	0.000	1.317	0.439	0.000	1.756
Resource Indemnity Tax	4.555	4.555	0.000	4.555	0.319	1.000	0.000	0.000	0.319	0.000	0.000	0.319
Accommodations Tax	7.016	7.016	0.000	7.016	0.491	0.750	0.250	0.000	0.368	0.123	0.000	0.491
Cigarette Tax	8.274	11.672	0.000	11.672	0.817	0.833	0.083	0.083	0.681	0.068	0.068	0.749
Tobacco Tax	1.035	1.035	0.000	1.035	0.072	0.833	0.083	0.083	0.060	0.006	0.006	0.066
Inheritance Tax	10.678	10.678	0.000	10.678	0.747	0.000	0.000	1.000	0.000	0.000	0.747	0.000
LGST	29.277	29.277	0.000	29.277	2.049	0.000	0.000	1.000	0.000	0.000	2.049	0.000
Coal Gross Proceeds	12.689	12.689	0.000	12.689	0.888	0.000	0.000	1.000	0.000	0.000	0.888	0.000
Miscellaneous Mines Tax	0.000	0.000	0.000	0.000	0.000	0.750	0.250	0.000	0.000	0.000	0.000	0.000
Cement & Gypsum Tax	0.130	0.130	0.000	0.130	0.009	0.750	0.250	0.000	0.007	0.002	0.000	0.009
Gasoline Tax	88.759	88.759	0.000	88.759	6.213	0.833	0.083	0.083	5.177	0.518	0.518	0.000
Diesel Tax	26.723	26.723	0.000	26.723	1.871	0.833	0.083	0.083	1.559	0.156	0.156	0.000
Aviation Fuel Tax	0.317	0.317	0.000	0.317	0.022	0.917	0.083	0.000	0.020	0.002	0.000	0.022
Natural Gas Fuel Tax	0.000	0.000	0.000	0.000	0.000	0.500	0.250	0.250	0.000	0.000	0.000	0.000
GVW Tax	18.465	18.465	0.000	18.465	1.293	0.833	0.083	0.083	1.077	0.108	0.108	0.000
New Car Sales Tax	6.913	6.913	0.000	6.913	0.484	0.833	0.083	0.083	0.403	0.040	0.040	0.443
Totals	\$544.781	\$759.563	(\$68.279)	\$691.284	\$48.389				\$41.424	\$2.359	\$4.607	\$35.188

EXHIBIT
DATE 7/13
HB

Testimony of:
Dan L. Walker, U S WEST Communications
House Bill 44
Before the House Taxation Committee
July 13, 1992

U S WEST Communications must appear today in opposition to HB 44. While we recognize the financial difficulty of the State of Montana, we believe that U S WEST Communications is presently paying an inordinately high rate of taxes in Montana.

As the Committee may know, U S WEST Communications provides local telephone exchange service in 14 western states. By way of comparison, our state and local taxes in Montana are the highest of the 14 states. This comparison is of the total state and local taxes paid divided by the total network access lines served.

U S WEST - Montana	
Total State and Local Taxes - 1991	\$22.6 Million
Total Divided by Lines Served - 1991	\$75.30/Line
Monthly Tax per Line Served - 1991	\$ 6.30/Line/Month

U S WEST	
Average Annual Tax in U S WEST Area	\$40.44/Line
Average of 13 Other States Served	\$37.75/Line

Our argument against increasing the burden of taxation on U S WEST Communications is simply that the taxes levied on our operations in Montana are not in line with taxes in the other states in which we operate. This bill does not affect property taxes which represent the greatest share of the taxes we pay in Montana. However, it does provide for a surtax on our Corporate License Tax and a surtax on the Telephone License Tax.



ENTECH

**MONTANA POWER COMPANY CONSOLIDATED
TAXES PAID TO THE STATE OF MONTANA**

	1991	1990
PROPERTY TAX	\$ 39,700,000	\$ 38,700,000
SEVERANCE TAX	17,500,000	19,700,000
CORPORATION LICENSE TAX	6,900,000	8,700,000
OTHER	9,500,000	9,200,000
TOTAL MONTANA TAXES	\$ 73,600,000	\$ 74,300,000

AS A % OF MONTANA STATE
AND LOCAL REVENUE FROM
TAXES, FISCAL YEAR 1990/1991
(\$1,349,000,000)

5.5%

5.5%

HOUSE TAXATION EXHIBIT 2
DATE 7/13/92
HB 44

**MONTANA POWER CONSOLIDATED
MISCELLANEOUS**

	1991	1990
TOTAL MONTANA PAYROLL	\$126,600,000	\$122,000,000
COMMON DIVIDENDS PAID	\$ 75,300,000	\$ 71,300,000
TOTAL ELECTRIC CUSTOMERS	251,000	249,000
TOTAL GAS CUSTOMERS	114,000	111,000



MONTANA POWER COMPANY

**MONTANA POWER COMPANY UTILITY DIVISION
TAXES PAID TO THE STATE OF MONTANA**

	1991	1990
PROPERTY TAX	\$ 38,300,000	\$ 35,500,000
CORPORATION LICENSE TAX	4,900,000	6,100,000
ELECTRIC ENERGY	2,000,000	1,800,000
PRODUCERS TAX	1,000,000	1,500,000
SEVERANCE TAX		
PUBLIC SERVICE COMMISSION, CONSUMER COUNSEL AND OTHER	1,800,000	1,700,000
TOTAL MONTANA TAXES	\$ 48,000,000	\$ 48,600,000

ENTECH

**ENTECH, INC. AND SUBSIDIARIES
TAXES PAID TO THE STATE OF MONTANA**

	1991	1990
SEVERANCE TAX	\$ 16,500,000	\$ 18,200,000
GROSS PROCEEDS TAX	5,000,000	5,000,000
CORPORATION LICENSE TAX	2,000,000	2,600,000
PROPERTY TAX	1,400,000	1,200,000
OTHER	700,000	700,000
TOTAL MONTANA TAXES	\$ 25,600,000	\$ 27,700,000

Montana Statewide Survey

800 Voters

May 1992

House Inventory
EXHIBIT 4
DATE 7/13/92
HB 44

Executive Summary

In the late 1970's, Marketing Research Institute developed its proprietary P-Base technology for the purpose of identifying State Legislative Districts most likely to elect pro-business legislators. P-Base, which stands for Power Base, involves three distinctive research phases. First, issues important to key business leaders are identified. The Montana State Chamber of Commerce convened a special panel of government affairs representatives for this purpose. Second, voter opinion on key business issues is measured by a statewide telephone survey. MRI developed a comprehensive questionnaire utilizing Montana's key business issues for the purpose of determining how various voter groups support major business issues. This report summarizes basic findings of that survey. Third, MRI completes a statistical analysis of business support indicators in the statewide survey for the purpose of developing a P-Base formula which is applied to each Legislative District in the state. The P-Base formula uses census demographic data and precinct by precinct election results to determine which Legislative Districts in Montana should elect stronger business legislators.

In March of 1992, MRI completed a statewide telephone survey of 800 registered voters in Montana. Survey results provide a sampling error factor of plus or minus 3.5% at the .95 level of confidence. The statewide voter survey examined a number of important issues.

Several demographic items, including geographical location of residence address, voter political party identification, voter age, occupation for the highest wage earner in each household, voter education level, annual household income, home ownership, and voter gender, were included in the statewide survey of 800 registered voters. Montana voters were about equally divided in thinking of themselves as Republicans and Democrats. The typical voter was 44 years old with an annual household income of \$31,000. About half of all respondents worked in white-collar occupations and about half were employed in blue-collar positions or worked in agriculture.

Major top-of-mind issues for Montana voters centered around ways to improve the state economically including providing more and better jobs, lowering taxes, and strengthening the economy. In fact, 52.0% of all responses were economically related. In addition, voters were concerned about the environment 10.9%, politics in Montana 7.3%, and schools 5.4%.

Much like the rest of the country, Montana voters are less than satisfied with State Government and the State Legislature. A strong plurality of voters, 39.8%, said that State Government in Montana was less effective than State Government in surrounding states. Only 28.2% of voters concluded that Montana State Government was more effective than elsewhere. As indicated in the following two tables, Montana voters were very dissatisfied with the State Senate and State House of Representatives. In fact, a majority of voters said they were dissatisfied with both branches of the State Legislature.

State Senate Satisfaction		
5	Very Satisfied	2.4%
4	Mildly Satisfied	32.6
3	Neither/Nor	13.0
2	Mildly Dissatisfied	29.9
1	Very Dissatisfied	21.6
Total Satisfied		35.0
Total Dissatisfied		51.5
Ratio Sat/Dissat		-1.5:1
Mean Score		2.64

State House Of Representative Satisfaction		
5	Very Satisfied	3.1%
4	Mildly Satisfied	31.9
3	Neither/Nor	12.8
2	Mildly Dissatisfied	29.2
1	Very Dissatisfied	22.3
Total Satisfied		35.0
Total Dissatisfied		51.5
Ratio Sat/Dissat		-1.5:1
Mean Score		2.64

Montana voters were not as dissatisfied with their local State Senators and Representatives. However, voters were less satisfied than generally required to provide a 50% probability of re-election success for the incumbent State Legislators. MRI has employed the five-point job satisfaction question used in this statewide study in over 1,000 campaigns nationwide. Typically, incumbents with less than 64% total satisfied responses have less than a 50% likelihood of re-election success.

Local State Senate Satisfaction		
5	Very Satisfied	12.9%
4	Mildly Satisfied	44.3
3	Neither/Nor	11.4
2	Mildly Dissatisfied	17.6
1	Very Dissatisfied	13.4
Total Satisfied		57.2
Total Dissatisfied		31.0
Ratio Sat/Dissat		1.8:1
Mean Score		3.26

Local State Representative Satisfaction		
5	Very Satisfied	11.6%
4	Mildly Satisfied	44.0
3	Neither/Nor	11.4
2	Mildly Dissatisfied	19.3
1	Very Dissatisfied	12.5
Total Satisfied		55.6
Total Dissatisfied		31.8
Ratio Sat/Dissat		1.7:1
Mean Score		3.23

Can Democrats or Republicans manage State Government better? Montana voters concluded that political party makes no difference in the ability to manage State Government. In fact, 66.5% held that opinion while 18.0% believe Democrats do a better job and 12.0% conclude that Republicans do a better job.

How should State Government solve the \$150 million budget deficit? When given the choice between higher taxes and deeper cuts, 43.8% favored deeper cuts, 26.1% wanted higher taxes, and 14.5% recommended doing both. If taxes must be raised, voters prefer enacting a sales tax rather than increasing property or income taxes.

The statewide survey included a number of questions which examined business support characteristics among voters. For example, 47.1% of voters favor a legislative candidate supported by business leaders while 34.4% prefer an opponent endorsed by labor leaders. When business endorsement was compared to support by the State Education Association, 43.4% of voters favored the state education candidate while 42.0% wanted the business candidate. When business and environmental support were compared, 56.5% favored the business candidate and 27.1% the environmental candidate. Montana voters show strong identification with business leaders compared to labor leaders. One question asked: "On most political and economic issues, do you agree with the opinions held by business leaders or labor leaders in your area?" Responses were 44.8% business leaders and 28.8% labor leaders.

The survey examined voter opinion on ten key business issues. The issues included voter opinion on the share of taxes paid by business, should business provide health insurance to all employees, the designated wilderness issue in Montana, reintroduction of the Grey Wolf, how business is regulated in the state, taxes on the production of minerals, timber production in Montana, economic growth for the state, development of natural resources, and how employee benefits should be determined. The following tables summarize voter opinion on these issues.

(tables on following page)

Business Share Of State Taxes	
Too Large	20.4%
Too Small	22.6
Fair Share	42.9
Uncertain	13.8

Should Business Provide Health Insurance	
Required	60.1%
Not Required	33.6
Uncertain	6.0

What About Montana Wilderness	
Has Enough	56.1%
Not Enough	24.6
Too Much	15.8
Uncertain	3.4

Reintroduce Grey Wolf	
Favor	39.4%
Oppose	46.5
Uncertain	13.5

(tables on following page)

State Regulation Of Business	
Over Regulated	27.5%
Under Regulated	14.1
Appropriate	44.6
Uncertain	13.4

Mineral Taxes In Montana	
Higher	13.2%
Lower	10.9
Same	67.5

Limit Timber Production	
Yes	39.0%
No	54.4
Uncertain	7.5

(tables on following page)

Opinion On Economic Growth		
5	Strongly Encourage	68.3%
4	Encourage	21.6
3	Neither/Nor	4.0
2	Discourage	1.8
1	Strongly Discourage	4.4
Total Encourage		89.9
Total Discourage		6.2
Ratio Encourage/Discourage		14.5:1
Mean Score		4.47

Development Of Natural Resources		
5	Strongly Encourage	57.8%
4	Encourage	22.5
3	Neither/Nor	8.3
2	Discourage	3.5
1	Strongly Discourage	8.0
Total Encourage		80.3
Total Discourage		11.5
Ratio Encourage/Discourage		7.0:1
Mean Score		4.18

(table on following page)

How Determine Employee Benefits	
Government Regulations	11.6%
By The Employer	6.1
Employer/Employee	78.8
Uncertain	3.5

Overall, Montana voters take business' position on most issues. When voter opinion in Montana is compared to other areas of the country, MRI concludes that Montana voters are more supportive toward business issues than most voters elsewhere. On the issue of providing health insurance to all employees, most Montana voters, 60.1%, do want to require all businesses to provide health insurance for all employees. Across the country, 70% of voters would like to require all businesses to provide health insurance for all employees. Montana voters are less likely to favor requiring health insurance than voters elsewhere. It is significant that 89.9% of voters think Montana State Government should encourage economic growth and development and that 80.3% of voters want the state to encourage the development of Montana's natural resources.

Montana voters are more satisfied with public education than voters in most states. Most states show less than 50% voter satisfaction with public education. In Montana, 65.5% of voters were satisfied and 29.1% dissatisfied. Montana voters hold a strong opinion, 75.3%, that teacher pay raises should be based on merit, rather than length of service. In addition, a majority of Montana voters conclude that the major problem with public education is not too little money going into education but the organization and management of the existing system.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

1062

House Taxation

COMMITTEE

BILL NO.

44

DATE 7/13/92

SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Marqueline J. Lennark	American Insurance Assoc		✓
GEORGE PHILLIPS	PACIFIC POWER & LIGHT		x
RON ASHABRAND	State Farm Insurance		✓
DAN WALKER	US WEST Communications		✓
Donna Alexander	MT Petroleum Marketers		✓
Tom K. Hopgood	GTE Mt. Assn Realtors Health Ins. Assn. And Air Transport Assn.		✓
Riley Johnson	NFIB		✓
Ben Hawchul	MT Motor Carriers Assn		✓
JIM PAIADICHAK	M. D. C.		✓
Joe Mockler	MT Coal Council		✓
WARD SHODANHAN	CHEVRON Companies		✓
Phil Jones	MSA	✓	
GARY LANGLEY	MONTANA MINING ASSN.		✓
Jim TWILLEN	MT CHAMBER		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

2 of 2

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Taxation COMMITTEE BILL NO. 44
DATE 7/14/92 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Janelle Fallan Helena	Mt Petroleum		☒
Dore Allen	Mt. View Products Area		☒
Regent copy	Mt Beer & Wine Wholesaler		☒
Clara Paladichuk	Richland Co. 901 9th Ave. S.W. X. 05		☒
JEROME ANDERSON	SHALL WESTERN EXP INC		☒
Russ Ritten	Wash Corp		☒

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA SENATE 52nd LEGISLATURE - 2nd SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Halligan, on July 17, 1992, at 8:07 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Fred Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: none

Staff Present: Jeff Martin (Legislative Council)

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: none

HEARING ON HOUSE BILL 44

Presentation and Opening Statement by Sponsor:

Representative Bob Ream, District 54, said HB 44 is a reasonable compromise for getting the Legislature out of session. He commented that the Legislature needs to make cuts, but also needs to raise revenue which HB 44 accomplishes by imposing a 2.3 percent surtax on individual and corporate income tax for taxable year 92 and a 4.6 percent surtax for taxable year 93. Representative Ream further commented that the bill imposes a general stabilization tax on coal.

Representative Ream provided the Legislative Fiscal Analyst's (LFA) fiscal impact report on HB 44 as amended in House Taxation Committee (Exhibit #1). He explained that the House Taxation Committee deleted inheritance and liquor license tax, put all of the seven percent surcharge on coal tax into the

general stabilization fund, and created the surcharges he referred to in his opening statement for the last four months of this year and the next calendar year. He suggested that the 2.3 and 4.6 percent figures be rounded up to 3 and 4 percent to make computation easier for taxpayers.

Proponents' Testimony:

Senator Tom Towe, District 46, explained the fund balances on Exhibit #1. He said total tax is \$51.257 million, cash available is \$35.159 million, and that the bill will not change the \$7.8 million going into the highway account, for a total of \$32.097 million for this fiscal year. Senator Towe stated that there is no other fairer tax, and that the bill is a good way to guarantee the tax will terminate. He further stated that the bill is a temporary solution until it can be addressed on a permanent basis during the next legislative session. Senator Towe challenged anyone to come up with a more fair proposal.

Eric Feaver, Montana Education Association, said he believes HB 44 is the appropriate mechanism to resolve the immediate need for income.

Opponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said the local government severance tax on oil and gas, and the coal gross proceeds tax should not be in this bill. He told the Committee he would rather see the Legislature reduce current government expenditures to meet current government revenue, and that this surcharge makes the problem worse, as it allows higher spending on a system that won't work.

Mr. Burr said he sees a problem in paying bills beginning in August of this year, and said the budget has to be balanced. He commented that the state should borrow internally, such as from the Coal Tax Trust Fund, or the bill should state that as soon as revenue is paid back, the Governor be required to remove the tax. Mr. Burr told the Committee that HB 44 should not be looked at as a budget balancing measure.

Ken Williams, Montana Power and Entech, said he was concerned about the impact on utility businesses. He explained it could request a rate increase to compensate for the surcharge and reduced coal revenue. Mr. Williams stated this is a three-time hit, and that the coal business in Montana is changing. He agreed with Dennis Burr that coal gross proceeds be omitted from the bill.

Janelle Fallon, Executive Director, Montana Petroleum Association, said members represent 90 percent of petroleum producers in Montana. She provided information on production

taxes since 1980 and read from prepared testimony (Exhibits #2 and #3). Ms. Fallon told the Committee it is important that the Legislature understand what this bill means to the industry.

Jim Mockler, Montana Coal Council, advised the Committee that gross proceeds is a county tax, and its presence in the bill is unfair. He further advised the Committee that they may wish to change the language so that half of the money would go to the Coal Tax Trust Fund.

Dan Walker, US West Communications, said he believes the tax is inordinately high (Exhibit #4).

Jim Tutwiler, Montana Chamber of Commerce, provided information from a national firm the Chamber hired earlier this year, and said he felt the Committee needs to be aware of Montanan's attitudes (Exhibit #5).

Gary Langley, Montana Mining Association, said the bill is not equitable to the mining industry. He commented that the industry is taxed three times directly, and also indirectly, and said the mining industry is not healthy right now because it is dependent on world markets and production costs are high. Mr. Langley told the Committee HB 44 is bad legislation and won't expand the tax base, hurting all Montana taxpayers.

Gloria Paladichuk, Richland County Commissioner, told the Committee she was also representing the gas, oil, and coal counties, and said she had a problem with the local government severance tax in the bill. She explained that all local government severance tax wells drilled before 1985 may be in jeopardy, as well as future wells, as the timing could be affected. Ms. Paladichuk commented that if production is reduced, it will adversely affect counties, schools, and the equalization fund.

Tom Hopgood, Montana Health Care Association, Montana Association of Realtors, and GTE, said this bill is being sold as a temporary measure, but he foresees a significant risk of trying to defeat an extension of the bill next winter. He asked the Committee to consider the bill only as a stop-gap measure.

Ben Havdahl, Montana Motor Carriers, told the Committee he represented 300+ members who oppose the bill, and the use of dollars earmarked for highways and maintenance. He said he was concerned that the bill would have a negative economic impact, that it will continue. Mr. Havdahl advised the Committee that only \$14 million of the \$56 million borrowed from the highway fund has been repaid.

Mr. Havdahl explained that the diesel tax, GVW increases, and the 31 percent increase in workers' compensation rates create a \$3 million impact to the motor carrier industry. He further explained that the Association has completed a study of 170 of

400 reports from motor carriers in Montana, who show an average net profit of 2.85 percent. Mr. Havdahl stated that this figure will be reduced to 1.95 percent because of tax and worker's compensation increases. He said Montana stands to gain \$178 million in new dollars per year and needs the money to match these federal funds.

Jim Paladichuk, Montana-Dakota Utilities, stated his opposition to HB 44.

Ward Shanahan, Stillwater Mining Co., advised the Committee that page 6 of HJR 2 refers to platinum prices at \$453. He said the price was \$389 yesterday, and had been as low as \$338 earlier in the year. He told the Committee that HB 44 is not the solution.

Don Allen, Montana Wood Products Association, said he believes the Legislature must look seriously at the cumulative effect of the bill, and what its cost will be to enforcing federal mandated programs. He asked what is wrong with asking department heads what they can do to cut expenses.

Mr. Allen advised the Committee that there are 11,000 wood workers in Montana, and said five mills are running low because of the timber supply. He commented that there is no confidence in what is going on.

Steve Turkowitz, Montana Auto Dealers Association, stated his opposition to HB 44.

Jacqueline Lenmark, American Insurance Association, stated her opposition to the bill.

PROPOSERS:

George Paul, Montana Farmers Union, was delayed enroute to Helena to testify as a proponent of HB 44, and asked permission of the Chair to give his testimony following that of the opponents.

Mr. Paul said he believes the bill is the correct thing to do, and that he also agreed with Janelle Fallon's statement about inequity in the tax system, but didn't agree that the bill adds to that inequity. He told the Committee he would probably oppose an extension, and support only what is on the table now, as it is the only thing on the table. Mr. Paul stressed that, under normal circumstances, he would not support such legislation.

Mr. Paul told the Committee this is not the time to rush in and make changes because of pressure, and that they need to take time to make the right decisions instead of making politically correct decisions. He said there is a need for serious, long term tax reform in January, 1993, and that the dollars this bill will raise total approximately the same amount of taxation one

industry was relieved of in the mid-80s.

Mr. Paul asked the Committee to position themselves for the people, and said he didn't believe the directors of state agencies should have the authority to make certain cuts - that it is the job of the Legislature and, thus, the people.

Questions From Committee Members:

Representative Ream clarified that all gas, diesel, and GVW taxes go into the trust account, and are in the bill. He said the Department of Revenue sections are difficult, and that Terry Johnson, LFA, is working on them. He explained a technical amendment on page 29, line 10, which inserts "1994" to make language consistent, and strikes "ending". Representative Ream apologized for not dealing with the amendments suggested by Jim Mockler in the House Taxation Committee, and said Senator Towe has those amendments, and will correct the situation.

Chairman Halligan advised the Committee that the revised fiscal note is in the process of being printed.

Senator Towe asked Jim Tutwiler if he were aware that three-fifths of the tax is paid by individuals, and not businesses. Mr. Tutwiler replied he merely wanted to present the Chamber's survey results.

Senator Towe commented that Representative Driscoll had stated earlier that, as an individual, he would pay 16 of the taxes listed in the bill, while businesses would pay only 3 to 5 of the taxes. Senator Towe further commented that the highway fund has helped the state the past 20 years, and asked if there is any reason it should not now. Ben Havdahl replied he believes the dollars should be used for highways, and asked what is wrong with borrowing from the Coal Tax Trust Fund, if it is guaranteed to be repaid. He said the diesel tax is now 20 cents for state, and 20 cents for federal.

Senator Eck asked if the Motor Carriers intended to oppose the fuel tax increase in January. Mr. Havdahl replied it was premature to comment on their January position right now. He stated he has supported tax increases for highway funds, and is concerned that if the dollars are not there for federal matches, that Montana taxes will increase more.

Senator Gage referred to sections 34 and 36 of the bill, and asked if it were the sponsor's intent that the cigarette industry pay taxes on a tax it has already paid. Representative Ream replied that was not his intent, and that he would check with the Department of Revenue (DOR). Senator Towe referred to page 29, and said the tax starts on liabilities that occur after the effective dates.

Senator Gage commented that it appears nothing in the bill affects railroads except the corporations tax. He asked how much this would affect income tax for the Farmers Union. George Paul replied the Farmers Union is a non-profit member organization, and that the bill would affect 4,000 family members statewide.

Senator Doherty asked if the liquor tax will go up. Representative Ream replied the liquor excise tax would. Senator Towe replied the rate is 16 percent and not 10 percent.

Senator Doherty asked if the Montana Taxpayers appeared before any committees advocating any cuts. Dennis Burr replied it had not.

Senator Doherty asked if anyone realistically thinks the Legislature won't raise taxes in 1993. Tom Hopgood replied he was sure the 1993 Legislature will raise taxes, and that he hoped they would opt for comprehensive tax reform, and responsible spending cuts.

Senator Van Valkenburg asked what the DOR position is on implementation of withholding tables on individual income tax, if it is effective within the next ten days. Jeff Miller, Administrator, Income Tax Division, replied the tables would be out within the month.

Senator Van Valkenburg asked for DOR's response to Representative Ream's suggestion to adjust the rates to three and four percent. Judy Rippingale, Deputy Director, DOR, replied that is no problem for the Department.

Senator Van Valkenburg asked if it would be better to round these figures off. Judy Rippingale replied it would be easier.

Senator Van Valkenburg asked if a committee amendment providing that no penalty be assessed to the extent of that surtax for taxpayers who have not paid sufficient tax for CY93, would be a problem. Jeff Miller replied that, in the future it is not a problem, and that people on extension this year could address a waiver.

Senator Van Valkenburg asked Mr. Miller to prepare an amendment to this effect for executive session later this date.

Senator Van Valkenburg asked who among the opponents of HB 44 would want a 133 percent increase in business tax that they could not pass on in the way of a business nature to their customers. He commented that was the alternative the Committee was given.

Senator Eck asked what would happen if tuition were increased to cover the general fund deficit instead of education. There was no answer.

Chairman Halligan asked if it would be anti-business to cut essential services. Dennis Burr replied it would not be. He said the dollars are in personnel services, that other states have looked at salary adjustments, and that unnecessary functions exist within every agency.

Senator Towe asked Ken Williams to provide him with the gray Montana Power/Entech card showing 1990-91 figures. He commented that the severance tax and corporate license tax are down by \$2 million on the card, while dividends increased by that amount (Exhibit #6). Ken Williams replied that the companies paid an additional \$37 million in federal tax, and taxes in other states, and that they believe the owners should get back something similar. He added that there were inventory sales of various assets.

Senator Harp asked how dividends are treated. Ken Williams replied that are taxable as Montana income.

Closing by Sponsor:

Representative Ream commented to Senator Van Valkenburg that if people are exempted from the penalty, it might be a problem. He said about 13 percent file for extensions, and more could do so to avoid the surtax. Representative Ream told the Committee he does not intend to continue this approach in the next Legislature, and that structural changes are needed in taxation, but should not be tied to the Consumer Price Index (CPI).

HEARING ON HOUSE BILL 48

Presentation and Opening Statement by Sponsor:

Representative Dan Harrington, District 68, said HB 48 was requested by DOR to conduct its bidding process for liquor and wines in a manner allowing vendors of all sizes to sell liquor and wines to the state. He said the heart of the bill is what size liquor will be sold, and that the bill exempts from the procurement act, sets up a selling system, and tells DOR to slow down its rule-making authority.

Proponents' Testimony:

Mark Staples, Montana Tavern Association, stated his support of the bill, and said it restores respect for the Revenue Oversight Committee (ROC) and its direction which was diminished in the past. He commented that the must remain empowered.

Opponents' Testimony:

There were none.

EXECUTIVE ACTION ON HOUSE BILL 44

Amendments, Discussion, and Votes:

Senator Towe moved to strike "state" on page 3, line 21. The motion to carried unanimously.

Senator Towe moved to delete "exempt" through "constitution" in its entirety, and to insert "The" on page 4, lines 1-3. The motion carried unanimously.

Senator Towe moved to strike "ending" and change "93" to "94" on page 29, line 10, and to add "s" to "year" on line 9. The motion carried unanimously.

Senator Van Valkenburg stated he would like to change the surtax figures to 3 and 4 percent to make computation easier on page 2, lines 6-7. He further commented he believed that if, as the result of the surtax, people have underpaid, they would not be subject to penalty, assuming they were going to pay without an extension.

Senator Towe advised the Committee that DOR's \$7 million figure is largely a determination by the Department that people will ask for extensions. He said he believes it does clearly apply, and that there should not be that much loss of revenue because of the penalty. Senator Van Valkenburg agreed with Senator Towe, but said he was apprehensive about doing it.

The Senate Taxation Committee recessed at 10 a.m. and reconvened at 12:30 p.m. Senators Brown and Gage were not present when roll was noted.

Senator Towe moved the Committee's amendments to HB 44 (Exhibit #7). Jeff Martin called their attention to page 20, line 29, concerning applicable dates for income tax. The motion carried unanimously.

Senator Van Valkenburg moved his amendments concerning personal income withholding tables, effective September 1, 1992 (Exhibit #8). The motion carried unanimously.

Senator Towe moved to change 4.66 to 4.7 percent so the numbers on Senator Van Valkenburg's amendment would correspond. The motion carried unanimously.

Senator Van Valkenburg moved Representative Ream's amendment concerning cigarette tax (Exhibit #9).

Senator Towe asked Mark Staples to explain the amendment. Mark Staples replied that cigarettes are purchased by wholesalers from the manufacturer, so the 18 cent tax is already paid, but if the effective date is the first full month following passage and

approval of the bill (August 1, 1992), they could purchase all the 18 cent tax stamps out there and stockpile them because the new ones will be 19.26 cents. He explained that if the calendar year runs from passage and approval it will alleviate the problem.

Senator Van Valkenburg's motion to amend carried unanimously.

Recommendation and Vote:

Senator Towe moved that HB 44 Be Concurred In As Amended.

Senator Harp commented that the Second Special Session was called to address a cash balance and cash flow problem. He said \$10-11 million was made in spending cuts, and now the Committee is being asked to raise additional revenue to balance the budget. He said the Legislature needs to look at the spending side more, as the people are sending letters to say that is what they want.

Senator Harp further commented that \$50-60 million has already been borrowed from the highway trust account, and that more will be borrowed. He stated the Legislature has never gone into this fund the way it is now, and that it should be discussed.

Senator Van Valkenburg stated those funds will likely be repaid when tax revenue anticipation notes (TRANS) are issued for FY93, and that it is necessary to have some borrowable dollars to get through FY93. He explained that Appropriations and Finance and Claims Committees are to begin the process of raising the fuel tax for the 95 biennium for a reasonable highway program, and that it is a very serious and obvious problem when the Board of Examiners doesn't want to borrow money to balance the budget.

Senator Thayer asked if the bill would raise \$51 million. Senator Towe replied that there is \$31.6 million available cash in the general fund, in accrued revenue (all of the seven percent going to the general fund) borrowed from any account that is not interest-bearing (Exhibit #10). He said the Governor asked for cuts in K-12 and higher education budgets, and that the Legislature has made \$4 million in cuts other than education, or nearly twice as much as the Governor asked. Senator Towe further stated that there would be \$8-9 million savings in education for a total of \$20 million in non-tax revenue, but if more is cut it will deprive Montana citizens of education and medical care dollars.

Senator Harp stated there is \$4-5 million to play games with in the fire suppression account, and that he felt the Governor did not go far enough on cuts. Senator Van Valkenburg reminded the Committee that the Montana Taxpayers Association did not go before the Committees and ask for cuts. He stated that when cutting begins to get specific, people begin to understand there

are no easy choices, and strong interest groups become active.

Senator Van Valkenburg went on to state that when video gaming was targeted for a 133 percent increase, no other lobbies opposed that increase. He told the Committee it works the same way on the spending side, and encouraged Senators to go to Finance and Claims Human Services Subcommittee meetings and others, and see what it means to get specific. He said those committees are doing all that is possible to reduce spending in their areas.

Senator Gage agreed with Senator Van Valkenburg, and asked where the people were when the Committees tried to "de-earmark" dollars.

Senator Eck commented that the spending side needs to be looked at, and said one problem is subsidizing businesses who pay low wages (poverty level), and hire people at 30 hours or less. She further commented that those subsidies continue to grow.

Senator Thayer stated he did not believe the situation would change until the legislative process is changed. He said the Legislature needs to spend the early weeks working on what the income side looks like, and then tell the people what is available.

Senator Towe's motion that HB 44 be concurred in as amended carried with Senators Doherty, Towe, Van Valkenburg, Yellowtail, Eck and Halligan voting aye, and Senators Brown, Gage, Harp, Koehnke, and Thayer voting no.

EXECUTIVE ACTION ON HOUSE BILL 48

Amendments, Discussion, and Votes:

Senator Rea referred to his amendment drafted by Jeff Martin (Exhibit #11). Senator Eck moved the amendment, which carried unanimously.

Senator Towe stated he was concerned by DOR proceeding to let bids contrary to the ROC's request that it not do so. He asked if there were any bids that had not been awarded as of this moment, and proposed language to apply to all bids not yet awarded (Exhibit #12). Gary Blewett replied that DOR would not proceed with such bids, and that he had received no instructions to hurry up and award bids before the Governor signs HB 48.

Senator Doherty commented that the Legislature has stated three times that it does not want to privatize liquor stores, but it looks like DOR is doing everything possible to "screw up" the liquor business in the State of Montana. He asked if this sabotage would continue. Mr. Blewett replied that it absolutely and unequivocally would not, and that DOR was not making any